

TITLE 2: PUBLIC MORALS, SAFETY AND WELFARE
DIVISION 7: POLICE REGULATIONS AND PUBLIC PROTECTION
Chapter 5: ABANDONED ORCHARDS.

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27.051 Purpose.

The Board of Supervisors finds that neglected or abandoned orchards in the unincorporated portion of this County are places where the trees constitute a fire hazard, are places where vagrants or dissolute persons call dwell, are places which constitute ugly and unsightly conditions which adversely affect neighboring property, are places from which agricultural pests develop and spread, and such orchards are public nuisances.

Adopted Ordinance 1472 (1968);

27.052 Definitions.

Whenever in this chapter the following terms are used, they shall mean as follows:

(a) "Commissioner" means the San Bernardino County Agricultural Commissioner and regularly appointed employees of the San Bernardino County Department of Agriculture acting pursuant to his instructions;

(b) "Orchard" means any of ten (10) or more trees that are of the type that bear stone fruits, citrus fruits or pome fruits, situated together as in a grove;

(c) "Neglected or abandoned" means an orchard or part of an orchard, the trees of which being in such a condition that the limbs are moribund and the leaves or branches of which are dead, and that the individual in charge of same is not taking such ordinary care of the orchard as may be required for a harvested orchard and is not watering or discing or spraying such trees, all for a period of at least six (6) months, which period of time need not be continuous.

(d) "Removal" means cutting the trees and gathering the trunks, limbs, and debris in such a manner that the land thereof will contain no limbs or debris, or only such material neatly stacked such as firewood, all only in accordance with the applicable fire code, and in an area of the land set apart for only firewood.

Adopted Ordinance 1472 (1968); Amended Ordinance 1607 (1970);

27.053 Prohibition of Neglected or Abandoned Orchards.

No orchard shall be permitted to be neglected or abandoned, in the unincorporated part of the County of San Bernardino.

Adopted Ordinance 1472 (1968);

27.054 Notice.

The commissioner shall give written notice to the record owner of any orchard which the commissioner shall have determined is neglected or abandoned. The notice shall be given by any or all of the following ways:

1. Written notice, by certified mail.
2. By posting the property.
3. By personal service.

The commissioner shall use the best available information of public record for determining ownership and address for such notice, which shall be sufficient regardless of receipt of same. The notice shall describe the orchard in question, shall inform of the commissioner's determination, and shall demand compliance with this ordinance within twenty-eight (28) days. The running of this period of time shall not be stayed. Such notice or a copy of such notice, shall in all cases be mailed to the record owner of the orchard.

Adopted Ordinance 1472 (1968); Amended Ordinance 2994 (1986);

27.055 Appeal of Commissioner's Determination.

Any person who is affected by the notice mentioned in Section 27.054 may appeal to the Board of Appeals within the time for compliance with the order, by an appeal in writing filed with the issuing officer or department supervisor of such officer. Timely appeal shall stay any further action until the date set for hearing. The officer receiving the written

appeal shall inform the issuing officer, who shall set the matter for hearing before the Board of Appeals and notify the appellant of the date set for such hearing, at least fifteen (15) days prior to such date. If the appellant resides outside the County, the above period of notice shall be at least twenty-five (25) days. The Board of Appeals shall act on the appeal and its determination shall be conclusive. The Board of Appeals shall consist of five (5) persons, and shall be comprised as follows: one member shall be an officer of the department of the issuing officer, but not the issuing officer; one member shall be a deputy of the agency administrator of the County Agency which serves the department of the issuing officer; one member shall be a deputy of the County Counsel; and two members shall be selected directly by the Board of Supervisors. These two members shall be persons selected from individuals who have a background as an orchardist, or as a member of the Farm Bureau of San Bernardino County, or as an academician whose field was, or is, agriculture.

Adopted Ordinance 1472 (1968); Amended Ordinance 2058 (1976);

27.056 Removal of Trees.

Unless otherwise determined by the Board of Appeals as provided in Section 27.055, above, the orchard in question shall be brought into conformance with the requirements of this chapter, by removal of all neglected or abandoned trees within twenty-eight (28) days after the sending of written notice as provided above, or, in cases of appeal to the Board of Appeals, within twenty-eight (28) days of the sending of written notice to the appellant of that Board's decision. If there is not compliance within that period of time, the owner or any other person in charge of, or in possession of the orchard, who shall have received notice hereof, shall be guilty of a misdemeanor. Each period of one (1) week thereafter, during which time the orchard is not in compliance with this part, shall constitute a separate misdemeanor.

Adopted Ordinance 1472 (1968); Amended Ordinance 2058 (1976);

27.057 Legal Action to Compel Removal.

The Commissioner shall cause any orchard hereof to be brought into compliance with this chapter after the expiration of twenty-eight (28) days after the last notice is sent to the applicant, either the notice to remove or the notice of the determination of the Board of Appeals. The compliance shall be achieved as reasonably and economically as possible in accordance with the discretion of the Commissioner. The County Auditor shall pay the cost of such compliance from the funds of the Agricultural Commissioner. The total cost of such compliance shall be computed and an administrative fee of twenty percent (20%) of such cost shall be added thereto. A bill for the entire sum of the costs and administrative fee shall be mailed to the record owner of such orchard and a copy shall be sent to the County Auditor. The bill shall include an itemized statement covering the work necessary for such removal. If the record owner of the orchard or his agent does not pay the bill within thirty (30) days after said mailing, the Commissioner shall certify to the Auditor the demands remaining unpaid on said bill together with any information required by law in such cases. The County Auditor shall cause the amount of the same to be entered on the tax roll as a special assessment and tax lien on the property from which removal was accomplished. The special assessment shall be included on the next succeeding tax statement. Thereafter the amounts of the assessment shall be collected at the same time and in the same manner as County taxes are collected, and shall be subject to the same penalties, and the same procedure and sale in cases of delinquencies as provided in ordinary taxes. All or any portion of such special assessment, penalty, or costs entered shall on order of the Board of Supervisors be cancelled by the Auditor if uncollected or refunded by the County Treasurer under order of the Board of Supervisors, if assessment, penalty, or costs were entered, charged or paid:

- (a) More than once;
- (b) Through clerical error;
- (c) Through the error or mistake of the Board of Supervisors or of the Commissioner in respect to any material fact including the case where the costs rendered shows the County abated the orchard, but such was not the fact;
- (d) Illegally;
- (e) On property acquired after the lien by the State or any city, county, school district, or other political subdivision and because of this public ownership not subject to sale for delinquent taxes.

No order for refund under the foregoing shall be made except on a claim verified by the person who paid the special assessment or the representative of such person or his estate and said claim is filed within three (3) years after making the payment to be refunded.

The above cancellation or refund shall be determined upon by the Board of Appeals pursuant to appeals procedures similar to, and functioning in the same manner as the appeals procedures set forth in Section 27.055, above.

Adopted Ordinance 1472 (1968); Amended Ordinance 1607 (1970); Amended Ordinance 2058 (1976);